HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24523 of 2006

Dated:27.11.2006

Between:

Kothapalli Venkata Subbaraju and others.

…Petitioner

and

The Mandal Revenue Officer.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24523 of 2006

ORDER:

The three petitioners were assigned lands in Survey Nos.105/2, 105/3B2, 105/B4, 90/2, 105/3B5, 105/3B6, 105/3B7, 105/2 and 99/2B situated at Takkallapadu Village of Mandavalli Mandal in Krishna District, by proceedings dated 25.04.1998 issued by the respondent. The petitioners were also granted D-Form pattas and they were inducted into possession. When there was an attempt to dispossess them by the respondent, they filed W.P.No.25591 of 2002 before this Court. The same was disposed of observing that unless and until due process of law is followed, the petitioners cannot be evicted from the lands in their possession. The respondent now issued notices dated 25.08.2006 in Form No.I under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977 (for short 'the Rules'), alleging that the petitioners contravened the provisions of Section 3(2) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act') and they were called upon to show cause within fifteen days as to why they should not be summarily evicted from the lands. Aggrieved by this, the present Writ Petition is filed.

Learned Counsel for the petitioners submits that the notice

issued to the petitioners is vague. The petitioners are original assignees and they have not alienated or transferred the land in favour of third parties. In such an event the Mandal Revenue Officer ought to have given the details of alleged alienations made by the petitioners in contravention of Section 3(2) of the Act. He would urge that in the absence of such details or the vague details in the impugned show cause notice, it is not an effective notice under Rule 3 of the Rules, and therefore, the respondent acted without jurisdiction.

A perusal of the impugned notice would show that the petitioners are alleged to have contravened the provisions of Section 3(2) of the Act. Section 3(2) of the Act prohibits the transfer of assigned land either by purchase, gift, lease or mortgage or otherwise. Any such transfer is rendered void under Section 3(3) of the Act, and Section 4 confers the power on the Mandal Revenue Officer to resume the land for contravention of Section 3 of the Act. Therefore, this Court is not able to accept the submission. The petitioners admittedly submitted explanations to the Mandal Revenue Officer and before passing any orders the respondent must consider the contention of the petitioners that there is no violation of the provisions of Section 3(2) of the Act, if necessary, by conducting local enquiry in the Village where the land is situated. That would be sufficient safeguard against any arbitrary exercise of power by the respondent.

The petitioners have already submitted explanations and therefore, the Mandal Revenue Officer is directed to dispose of the matter within a period of six weeks from the date of receipt of a copy of this order keeping in view the observations made hereinabove.

The Writ Petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

27.11.2006
vs